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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,307	05/19/2000	Ernesto A. Brovelli	3086/1154 (PS0299)	1112

28533                      7590                      10/22/2002

BRINKS, HOFER, GILSON & LIONE  
IN RE: ALTICOR INC.  
P.O. BOX 10395  
CHICAGO, IL 60610

EXAMINER

MELLER, MICHAEL V

ART UNIT                      PAPER NUMBER

1654

DATE MAILED: 10/22/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.



**DETAILED ACTION**

***Election/Restrictions***

Election of group II, claims 7-11 and new claims 17-20 is noted. Claims 1-6, 12-16 remain withdrawn from further consideration by the examiner as being drawn to non-elected inventions.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-11 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braswell et al. in view of Facino et al. and Intelisano.

Braswell and Facino are of record.

Intelisano teaches that *Echinacea angustifolia* and *Echinacea purpurea* are interchangeable, see whole document, especially, cols 1-3 and the claims.

It would have been obvious to one of ordinary skill in the art to purify the extract of Braswell with the purification procedure of Facino since Facino makes it clear that such a purification procedure is well known in the art and used to achieve such pharmaceutical effects as is noted in Facino. It is simply the choice of the artisan in an

effort to optimize the desired results to use such purification procedures since such procedures were successfully used on the same extract. Further, it is obvious to use *Echinacea purpurea* instead of *Echinacea angustifolia* since Intelisano and Facino (page 1448) make it clear that one of ordinary skill in the art can use either extract for known antitumor effect.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 703-308-4230. The examiner can normally be reached on Monday thru Friday: 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 703-306-3220. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Michael V. Meller  
Examiner  
Art Unit 1654

MVM  
October 17, 2002